

HOUSE BILL No. 1323

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-3-8; IC 6-2.5.

Synopsis: Vending machines. Requires certain information to be placed on the identification device that must be displayed on the face of a vending machine. Provides that if an owner intentionally fails to display an identification device on a vending machine, the department of state revenue may: (1) confiscate the vending machine; and (2) impose a civil penalty on the owner of at least \$1,000 and not more than \$2,000. Provides that food that would not otherwise be subject to sales tax is not subject to sales tax if sold through a vending machine. Requires vending machine operators and owners to register with the department.

Effective: Upon passage; July 1, 2004.

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January 15, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1323

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-3-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The owner of a
3 vending machine shall **provide and** place on the face of the machine
4 an ~~identification~~ **identification** device ~~which that~~:

5 (1) **is at least two (2) inches by three (3) inches; and**

6 (2) **accurately reveals the following information:**

7 (A) **The owner's name and address. and he**

8 (B) **The following information about the retail merchant**
9 **who is liable for collecting state gross retail tax on the sale**
10 **of tangible personal property through the vending**
11 **machine:**

12 (i) **The rental merchant's name.**

13 (ii) **An identifier designated by the department that is**
14 **unique to the retail merchant. An identifier under this**
15 **item includes a universal product code (UPC).**

16 (iii) **The rental merchant's telephone number.**

17 (b) **The owner shall include the vending machine in his the**



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owner's annual personal property return.

~~(b)~~ (c) If an owner intentionally fails to display an identification device on a vending machine as required under this section, the department of state revenue may do either or both of the following:

(1) Seize and confiscate the vending machine.

(2) Impose on the owner a civil penalty of at least one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000).

It is a separate offense for each vending machine on which an owner intentionally fails to display an identification device for purposes of this subsection.

(d) For purposes of this section, ~~the term~~ "vending machine" means a machine which dispenses goods, wares, or merchandise when a coin is deposited in it and which by automatic action can physically deliver goods, wares, or merchandise to the depositor of the coin: **mechanical or an electronic device or a receptacle designed to:**

(1) receive a coin or currency; and

(2) dispense tangible personal property in return for the insertion or deposit of the coin or currency.

SECTION 2. IC 6-2.5-5-20, AS AMENDED BY P.L.257-2003, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

(1) candy;

(2) alcoholic beverages;

(3) soft drinks;

~~(4) food sold through a vending machine;~~

~~(5)~~ (4) food sold in a heated state or heated by the seller;

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~~(6)~~ (5) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

~~(7)~~ (6) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

SECTION 3. IC 6-2.5-8-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) As used in this section, "vending machine" has the meaning set forth in IC 6-1.1-3-8(d).**

(b) This section applies to a person that owns or operates a vending machine.

(c) Not later than August 15 of each year, a person shall submit the following information to the department on a form prescribed by the department:

(1) The person's name.

(2) The person's business address.

(3) The person's business telephone number.

(4) All addresses in Indiana at which the person maintains a business office.

(5) In the case of a person that is a business entity, the name of an officer or a director of the business entity on whom process may be served.

(6) The number of vending machines that the person owns or operates in Indiana.

(7) The name of each retail merchant who is liable for collecting state gross retail tax on the sale of tangible personal property through the person's vending machines.

(8) Any other information the department determines is necessary.

(d) Information collected under this section:

(1) is confidential; and

(2) constitutes trade secrets.

The department may not share information collected under this section with a governmental entity unless required by law.

SECTION 4. An emergency is declared for this act.

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